

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE
Subchapter 3. Eggs
(Noticed Published August 8, 2008)

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the California Department of Food and Agriculture (Department) proposes to amend, Title 3, Subchapter 3. Eggs, Section 1358. of the California Code of Regulations (CCR) pertaining to Reporting Periods.

The Department has not scheduled a public hearing on this proposed action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comment relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m. on September 22, 2008. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Anthony S. Herrera. Program Supervisor
Egg Quality Control Program
Feed, Fertilizer, Livestock Drug and Egg Regulatory Services
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814

AUTHORITY AND REFERENCE

Notice is hereby given that the Department of Food and Agriculture, pursuant to the authority vested by Sections 407, 27531 and 27553, Food and Agricultural Code, and to implement, interpret or make specific Sections 27551 and 27631, Food and Agricultural Code proposes to amend CCR Section 1358.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Section 1358. outlines the Inspection Fees, Reporting Periods, Advanced Payments and Penalties related to the Shell Egg Program. The current Reporting Periods stipulated in 1358. (b) are based on thirteen 4-week periods and are not consistent with the accounting system that the California Shell Egg Industry and the Out of State Shell Egg Industry currently use. The current system in use by these industries is based on twelve reporting periods; eight 4-week and four 5-week reporting periods. The current discrepancy in reporting calendars causes overlaps and inaccuracies in the reporting of

shipments and sales of shell eggs, and subsequently causes delinquencies of assessments paid to the Department on those shipments. Shipping reports generated by the department's border stations of out of state eggs into California and production assessment reports generated by California producers are also affected by the current conflict of reporting periods.

The specific purpose of amending Section 1358. (b), is to provide an accounting/reporting system that will be more accurate to all parties involved in reporting.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

Other nondiscretionary cost or saving imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or business: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

1. Create or eliminate jobs within California;
2. Create new businesses or eliminate existing businesses within California; or
3. Affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

EFFECT ON SMALL BUSINESS

The Department has initially determined that the proposed changes to the regulations would result in no added costs to small businesses affected by these proposed changes. This is based on the fact that most businesses utilize a 4-4-5 Retail Accounting Calendar to report their shell egg sales.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which these regulations are proposed, or would be as effective and less burdensome to affected private persons than the proposed regulations.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Anthony S. Herrera. Program Supervisor
Egg Quality Control Program
Feed, Fertilizer, Livestock Drug and Egg Regulatory Services
California Department of Food and Agriculture
1220 N Street, Sacramento, CA 95814
Telephone: (916) 445-4243; Fax: (916) 445-0232

The backup contact person for these inquiries is:

Lisa Gonzales, FV & EQC Supervisor
Egg Quality Control Program
Feed, Fertilizer, Livestock Drug and Egg Regulatory Services
California Department of Food and Agriculture
1220 N Street, Sacramento, CA 95814
Telephone: (916) 445-4243; Fax: (916) 445-0232

Please direct requests for copies of the proposed text of the regulations, the initial statement of reason, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Ms. Gonzales at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at 560 J Street, Sacramento, CA 95814. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and the petition received from Pacific Egg & Poultry Association, (PEPA). Copies may be obtained by contacting Lisa Gonzales at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Lisa Gonzales at the address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Gonzales at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at: www.cdfa.ca.gov/is/regulation.htm

DEPARTMENT OF FOOD AND AGRICULTURE

Date

George Deese, Deputy Secretary